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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,076

04/15/2004

Gary F. Holland

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02/01/2011

WIGGIN AND DANA LLP  
ATTENTION: PATENT DOCKETING  
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EXAMINER

NGUYEN, DINH Q

ART UNIT

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3752

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/825,076	HOLLAND ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dinh Q. Nguyen	3752	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 November 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 50,55,56,61-65 and 71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 56 is/are allowed.
- 6) ☒ Claim(s) 35,50,55,61 and 71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. The indicated allowability of claim 50 is withdrawn in view of the new ground of rejection to the reference(s) of Petrinec et al. in view of Italiane et al. Rejections based on the newly cited reference(s) follow. The Examiner is hereby apologizes for the withdrawal of the indicated allowability of claim 50.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 55 and 61-65 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With respect to claim 55, the limitation "with said reservoir being mounted in proximity to said body" is not fully understood by the Examiner, the instant specification cites the fire suppression system being mounted on the vehicle (see the specification page 5, lines 2 and 3), or the fire suppression system and distribution piping that can be mounted in a location outside of the vehicle crumple zones (see the specification page 13, lines 19 and 20), no where in the specification discloses the specific reservoir that containing a fire suppressant agent, wherein the reservoir is being mounted in proximity to said body, the expression in proximity is being understood as being close to, thus the limitation "with said reservoir being mounted in proximity to said body" is being understood as the fire suppressant agent

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reservoir (not the whole system or the distribution pipes and the discharge nozzles) is being mounted close to the vehicle body (external surface of the body) and not on the body or outside of the vehicle crumple zones.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 71 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 71 recites the broad recitation "a vehicle", and the claim also recites "such as a passenger automobile" which is the narrower statement of the range/limitation.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 71 is rejected under 35 U.S.C. 102(b) as being anticipated by Petrinec et al. (U.S. Patent No. 3,783,946) as best understood by the Examiner.

Petrinec et al. discloses a method for activating a fire suppression system installed in a vehicle (see column 2 line 26) comprising the steps of: detecting a collision with a sensor (using speed sensor as indicated at column 3, lines 28-29); sensing when a vehicle is coming to a stop (see column 5, line 11) after a collision (utilizing the switches 29-33, control circuit 34 and delay relay 38 as indicated at column 5, lines 1-55); and activating the fire suppression system to discharge a volume of fire suppressant from a tank 14 installed in the vehicle based on vehicle speed or a lack thereof after said collision (as indicated at column 5, lines 1-55). Furthermore, the step of sensing when a vehicle is coming to a stop can be done by a user inside the vehicle and manually activate the fire suppression system using the manual system of the mechanical sequential control device by closing the switch 63 by energizing the system (see column 5, line 56-column 6, line 68).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

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person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petrinec et al. In view of Italiane et al. (U.S. Patent No. 3,783,946).

Petrinec et al. disclose all the step of suppressing vehicle fires except for a fire suppression system comprises a propellant and a fluid fire suppressant. However, Italiane et al. teaches a fire suppression system 200 comprises a propellant 202 and a fluid fire suppressant 216 with a surfactant such as pluronic polyols (see column 11, line 30). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Rhines with a fire suppression system that comprises a propellant and a fluid fire suppressant as suggested by Italiane et al. Doing so would provide an effective way to fight fires in an enclosed space (see column 2, lines 65).

#### ***Allowable Subject Matter***

11. Claim 56 is allowed.

#### ***Response to Arguments***

12. Applicant's arguments filed November 23, 2010 have been fully considered but they are not persuasive.

With respect to the Applicant arguments of claim 55, the Examiner respectfully traverses the Applicant arguments.

With respect to the limitation “with said reservoir being mounted in proximity to said body”, the Examiner interpreted that the fire suppressant agent reservoir is being mounted close to the vehicle body (external surface of the body) and not on the body or outside of the vehicle crumple zones, the limitation “proximity” could be interpreted as adjacent and outside of the body and not necessarily located inside the body “outside crumple zone” as indicated

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on page 13, lines 19-20 and Figure 1. Therefore, the specification does not fully support the mounting location of the claimed reservoir.

13. Applicant's arguments with respect to claims 50 have been considered but are moot in view of the new ground(s) of rejection.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dinh Q Nguyen/  
Primary Examiner, Art Unit 3752

dqn

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